

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (S) No. 4621 of 2020

Smt. Sarojani Sona Wife of Shri Rajmal Mona Aged About 33 Years Working As Safai Karmachari (Sweeper) and Posted at Adarsh Middle School Sakti, District Janjgir Champa (Chhattisgarh).

---Petitioner(s)

Versus

1. State of Chhattisgarh Through Secretary, Department of School Education, Mahanadi Bhawan, Mantraya New Raipur, District Raipur (Chhattisgarh).
2. Director Directorate Of Chhattisgarh Public Instruction Indravati Bhawan, Naya Raipur, District Raipur (Chhattisgarh), District : Raipur, Chhattisgarh
3. Director, S.C.E.R.T. Raipur, District Raipur (Chhattisgarh).
4. Joint Director Education Division Bilaspur, District Bilaspur (Chhattisgarh)
5. Collector Cum Officiating Chairman Controlling And Managing Committee Government Adarsh Higher Secondary School Sakti, District Janjgir Champa (Chhattisgarh)
6. District Education Officer Cum Officiating Secretary Controlling And Managing Committee Government Adarsh Higher Secondary School Sakti, District Janjgir Champa (Chhattisgarh)

---Respondents

For Petitioner	:	Shri Ajay Shrivastava, Advocate.
For Respondent-State	:	Shri Sudeep Verma, Dy. Govt. Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order On Board

24.11.2020

1. The challenge in the present writ petition is the action on the part of the respondents declaring the petitioner ineligible for appointment to the post of Part Time Sweeper. The reason for declaring the petitioner ineligible was that she has not passed 5th and 8th.
2. The counsel for the petitioner refers to the advertisement Annexure P/4 dated 07.07.2020 wherein the advertisement does not reveal any minimum qualification prescribed for the post of Part Time Sweeper whereas, in the very same advertisement for all other posts which were advertised the specific qualification or minimum eligibility criteria have been specifically reflected. It is the further contention of the petitioner that

she has passed 10th examination under the Chhattisgarh State Open School Examination in the year, 2013 and as such for all practical purposes she is 10th pass. Therefore, declaring the petitioner to be ineligible is totally contrary and malafide and therefore has sought for setting aside of the order/action of the respondents in declaring the petitioner ineligible.

3. The State counsel trying to defend the case submits that from the pleadings it appears that the petitioner infact has not studied class 5th and 8th and has straightaway under the State Open School Education has participated in the 10th examination and it was for this reason that the authorities have taken a decision declaring the petitioner ineligible.
4. The ground raised for declaring the petitioner ineligible and justification that the State counsel has given for the same is not sustainable firstly for the reason that the advertisement itself did not prescribe any minimum eligibility criteria or qualification for being appointed to the post of Part Time Sweeper. Secondly, admittedly the petitioner has cleared her 10th examination under the Chhattisgarh State Open School Examination scheme and therefore for all practical purposes she is 10th pass candidate. Under the circumstances, the insistence of the respondents for having cleared 5th and 8th does not seem to be with any logical support, nor is it required under the advertisement or the recruitment process which were undertaken.
5. Thus, this court has no hesitation in reaching to the conclusion that the action on the part of the respondents in declaring the petitioner ineligible is bad in law. The respondents are directed to immediately consider the claim of the petitioner along with other candidates for the said post of Part Time Sweeper. The impugned order dated 08.09.2020 (Annexure P/1) to

the extent of declaring the petitioner to be ineligible for the aforesaid reasons deserves to be and is accordingly quashed. Consequence to follow in terms of the observations made in the preceding paragraphs.

6. The writ petition accordingly stands allowed and disposed of.

Sd/-
(P. Sam Koshy)
Judge

inder